



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201345039

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 14 2013

Uniform Issue List: 408.03-00

T. E. P. R. A. T. 2

Legend:

Taxpayer	=	***
IRA X	=	***
Amount A	=	***
Amount B	=	***
Financial Institution A	=	***
Financial Institution B	=	***

Dear ***:

This is in response to your request dated November 6, 2012, as supplemented by correspondence dated April 3, June 17, and July 22, 2013, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer represents that he received a distribution from IRA X totaling Amount A. Taxpayer had invested Amount A in IRA X in a 12-month certificate of deposit ("CD") and he asserts that he had intended to roll over Amount A into another 12-month IRA CD when it matured, as he had consistently done with Amount A with prior IRA CDs, but

his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to his depositing the money in a non-IRA CD by mistake and contrary to his established intent.

Taxpayer maintained IRA X with Financial Institution A and invested IRA X in a 12-month IRA CD on May 27, 2010. The assets in IRA X were originally distributed from another IRA and previously had been invested in a series of consecutive 12-month IRA CDs with timely rollovers to the next upon maturation of the previous 12-month IRA CD. On May 27, 2011, Taxpayer took a full distribution of Amount A from IRA X upon maturation of the 12-month IRA CD and, as he had done in the past, he intended to deposit it into another IRA CD with Financial Institution B. However, he mistakenly deposited it into a regular non-IRA CD on June 6, 2011. By the time Taxpayer became aware of the error, the 60-day rollover period had expired.

A 12-month IRA CD requires that it be reinvested every year when it matures. Taxpayer has represented and established through submitted documentation a consistent practice for many years of rolling over the IRA assets into a new IRA CD when the prior IRA CD matured.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to a portion of the distribution of Amount A, specifically, Amount B.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the

amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6) (related to required distributions under section 401(a)(9) and incidental death benefit requirements of section 401(a)).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer is consistent with his assertion that he intended to roll over Amount A when his 12-month IRA CD had matured, but that his failure to accomplish a timely rollover was caused by depositing Amount A into a regular non-IRA CD by mistake and contrary to his established intent and previous practice.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount A from IRA X. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount B into an IRA. Provided all other requirements of section 408(d)(3), except the 60-day requirement, are met with respect to such contribution, Amount B will be considered a rollover contribution within the meaning of section 408(d)(3).

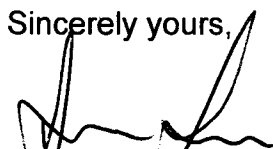
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code (regarding required distributions).

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact ***** at (***) **- **
*. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Jason Levine, Manager,
Employee Plans Technical Group 2

Enclosures:

Deleted copy of ruling letter

Notice of Intention to Disclose